

TENNESSEE HOUSING DEVELOPMENT AGENCY
BOARD OF DIRECTORS
July 19, 2001

Pursuant to the call of the Chairman, the Tennessee Housing Development Agency Board of Directors met on Thursday, July 19, 2001, at 1:00 P.M. in Conference Room A in Suite 1116, Parkway Towers, Nashville, Tennessee.

The following members were present: Janice Cunningham for Steve Adams, Jay Ballard, Sam Bartholomew, Susan Brown, Riley Darnell, David Hayes, Harold Hunter, Ronnie Knight, Ann Butterworth for John Morgan, John Lamar for Warren Neel, Jeff Reynolds, Jerry Sisson, and Caestine Williams.

The following members were absent: William Bruce, Mark Cunningham, Leigh Ferguson, Carolyn Flagg, Bill Long, and Larry Rogers.

Chairman David Hayes opened the meeting for public comment. No one asked to address the Board. Next, Chairman Hayes declared a quorum was present and called the meeting to order. Upon motion by Mr. Knight, seconded by Ms. Brown, the minutes of the May 17, 2001, meeting were approved as distributed.

The first report on the agenda was the Monthly Board Report. Janice Myrick, Executive Director, stated the July Board Report contained preliminary financial figures for June 30, 2001. Staff is in the process of closing out the books for the end of the fiscal year. Information regarding the gender and race composition of the Agency's staff was also included in the July Board Report.

Next on the agenda were several requests for Board review of 2001 Low Income Housing Tax Credit ("LIHTC") Applications. Mr. Sisson said the process allows applicants to ask for Board review following staff determinations regarding initial applications and review by the Policy & Programs Committee. There are three developers requesting a review today. These requests were previously reviewed by the Policy & Programs Committee on June 14, 2001.

Mr. Sisson said Metropolitan Development and Housing Authority (MDHA) submitted an application for the Preston Taylor Homes (TN01-035). The application failed to meet threshold requirements specified in the 2001 Qualified Allocation Plan (the "QAP") and was found to be ineligible due to failure to provide all required disclosure information regarding officers and directors of the ownership entity. The ownership entity is a large company and the applicant said it was not possible to provide all of the disclosures. Mr. Sisson said the Committee did not take action to approve the application. Mike Clinard, Director of Hope VI at MDHA, introduced John Haynes, an attorney from Boulton Cummings. Mr. Haynes said the application is part of the Phase 2 of Preston Taylor Homes in Nashville. When the developer applied for tax credits for Phase 1, MDHA was listed as an initial member of the LLC and Lend Lease Real Estate Investments ("Lend Lease") was not listed as a General Partner. In the application for Phase 2, Lend Lease is a general partner. During the cure period, while working to gather the additional disclosure information requested, the developer discovered that the ultimate ownership entity is an Australian corporation traded on the Australian Stock Exchange and is one of the largest real estate investment companies in the world. Mr. Haynes said they were able to disclose all of the involved parties through all of the North American levels. Mr. Reynolds stated the disclosure requirement was put into place to determine compliance with the limitation on the amount of tax credits allocated a single developer and if there was a felony conviction, suspension or debarment, bankruptcy or suspension of required licensing. He said he believed the applicant had disclosed through enough levels to establish none of these conditions existed. Once the level of disclosure reaches a public corporation, it

becomes impossible to get individual disclosure forms from everyone involved. Mr. Reynolds said the language regarding the level of disclosure should be reviewed for future Qualified Allocation Plans. Mr. Reynolds moved that the Board find that the applicant substantially complied with the disclosure requirements in the QAP and accept the application. Mr. Reed seconded the motion. Mr. Sisson agreed that this issue is a technical defect, but he did not believe the application was in compliance with the QAP. After further discussion, the motion passed with Ms. Cunningham voting no.

Mr. Sisson said the next request for review was by Regency Development Associates, Inc., (Regency) for Meadows of Milan Apartments (TN01-042), Hillside Village Apartments (TN01-043), Meadowbrook Apartments (TN01-045), and Hunter's Bend Apartments (TN01-046). This is the same technical issue involving a publicly traded company where all disclosures were not submitted. Mr. Reynolds moved that the Board find that the applicant substantially complied with the disclosure requirements in the QAP and accept the four Regency applications and Mr. Ballard seconded. Mr. Bartholomew stated he would recuse himself from voting due to a conflict of interest. The motion passed with Ms. Cunningham voting no and Ms. Butterworth abstaining.

Mr. Sisson said the next review was requested by Huntsville Housing Associate, LP, for Highlander Pointe Apartments (TN01-033) and the issue is property control. An option for the purchase of the subject property was provided in the initial application. The cure notice requested evidence that the person who signed the option, as the current owner, had control of the land. No one appeared at the Policy & Programs Committee to provide evidence of property control. Mr. Sisson said no action was taken by the Committee, therefore, the application was ineligible due to failure to meet the property control requirement. Mr. Sisson stated a representative was present to deliver the deed which was in existence at the time the application was made. Ken Maddox, Huntsville Housing Associates, LP, stated there was a misunderstanding about the deed required by the QAP. He thought the required deed would be the one transferring the land to Huntsville Housing Associates, LP, which would not be available until all financing was in place. Mr. Maddox stated he does have the appropriate deed to submit today if allowed. Upon motion by Mr. Sisson, seconded by Ms. Butterworth, the Board accepted the deed which was in existence at the time initial application was made.

Mr. Sisson said requests for review of Multifamily Bond Authority applications was next. The first application to be considered was submitted by Buehler Enterprises, Inc, for Autumn Wood Trail Estates (TN01-101). The issue is whether or not the documentation submitted with the initial application was a firm commitment for the purchase of the bonds. Mr. Sisson said the Committee did not accept the documentation as submitted. Harold Buehler stated a letter, from Munimae Midland LLC, to enhance the bonds was submitted with the initial application. During the cure period, a second letter from Munimae, stating the company would be willing to purchase or place the bonds was submitted. Mr. Buehler pointed out that the Policy & Programs Committee allowed another applicant to submit a commitment letter from an entity other than the one who provided the original commitment letter. Mr. Buehler introduced Stephen Bien from Munimae. Mr. Bien stated there was a miscommunication about the specific style of letter the Agency required, therefore, the credit enhancement letter was mailed to Mr. Buehler. The subsequent letter explained that, in addition to credit enhancement, Munimae could also purchase the bonds. Mr. Bien stated that Mr. Buehler now has a letter stating that Munimae is willing to purchase the bonds which should meet the requirement. Mr. Reynolds stated that Mr. Buehler is correct about the Policy & Programs Committee allowing an applicant to substitute a new bond purchase entity in the interest of fairness because the deal had come together. In response to questions from Chairman Hayes, Mr. Sisson stated the first commitment letter submitted with the initial application was insufficient and the Committee found the clarification letter, submitted during the cure period, to be insufficient also. After further discussion, Chairman Hayes asked if staff recommendation was that the third letter, provided by Mr. Buehler, still does not provide an unconditional commitment to purchase the bonds.

Phyllis Vaughn, Director of Multifamily and Special Programs, stated that was correct. No motion was made to modify the Policy & Programs Committee determination.

The report of the Bond Finance Committee was next on the agenda. The first item for consideration was the Schedule of Financing for Fiscal Year 2001-2002. Ms. Butterworth stated the Agency is required by statute to provide a schedule of anticipated financing for the upcoming fiscal year for submission to the State Funding Board, however, the Agency is not bound to the timeframe or amounts. She said the Bond Finance Committee recommended approval by the Board. Ms. Butterworth stated the Bond Finance Committee also approved a Reimbursement Resolution which authorizes the Agency to use a maximum of \$50 million of its resources to fund new mortgage loans until Issue 2001-2 proceeds are available. Issue 2001-2 is expected to close by the end of August. Upon motion by Ms. Butterworth, seconded by Mr. Bartholomew, the Board approved the Schedule of Financing for Fiscal Year 2001-2002 to be submitted to the State Funding Board and the Reimbursement Resolution, both as recommended by the Bond Finance Committee.

Next on the agenda was the Grants Committee report. Ms. Brown said the first topic relates to the wheelchair ramp program funded by the Agency since 1999. The Agency provided \$150,000 with approximately \$1,000 spent per ramp for materials. The labor was provided by volunteers. She introduced Deana Claiborne and Greg Cox from the United Cerebral Palsy of Middle Tennessee. Ms. Claiborne played a video for the Board which featured people who have benefited from the wheelchair ramp program. Ms. Brown said the Grants Committee approved the staff recommendation to extend the program for an additional two years with funding of \$200,000. The funds will be drawn from recaptured 1998 HOUSE funds. Upon motion by Ms. Brown, seconded by Mr. Darnell, the Board approved the recommendation for extending the wheelchair ramp program contingent upon the availability of funds.

The Grants Committee also considered a request to fund individual development accounts (IDAs). IDAs are restricted matched savings accounts for low-income families or individuals. The proposal, developed by the Tennessee Network for Community Economic Development (TNCED), requests \$110,000 from the Agency to be used for a 2-to-1 match, up to \$1,000 per family, for homeownership purposes only. Ms. Brown said the IDAs are targeted towards individuals with disabilities or the working poor who would have to meet all of the Agency's income guidelines. The Tennessee Department of Human Services is also involved in the program. Upon motion by Ms. Brown, seconded by Mr. Darnell, the Board approved funding in the amount of \$110,000 for IDAs with the funds to be drawn from recaptured 1998 HOUSE funds based on availability of the funds.

Ms. Brown said the discussion of options for the HOME Program was deferred to the November meeting.

Ms. Brown said the Agency has been involved in the Bicentennial Neighborhood Initiative program for several years. The Grants Committee recommends that a sunset date for the program be set. Upon motion by Ms. Brown, seconded by Ms. Butterworth, the Board set December 31, 2002, as the termination date for the program, with no exceptions and no appeals to be granted. Funds uncommitted as of December 31, 2002, will revert to the Agency.

Ms. Brown stated the Grants Committee considered an item which was not on the agenda. She said requests were submitted for waivers to the HOME guidelines by the Affordable Housing Resource Agency in Nashville and United Housing in Memphis. The requests are for waivers to the 2001 HOME program to allow the second mortgages for homeownership, up to \$14,999, to be repayable rather than forgivable. Upon motion by Ms. Brown, seconded by Mr. Hunter, the Board approved the waivers for Affordable Housing Resource Agency and United Housing.

The report of the Policy & Programs Committee was next on the agenda. Ms. Sisson said the Committee considered the Section 8 Homeownership Voucher Program. Currently, the Section 8 tenant-based vouchers, funded by HUD, are only used for rental assistance. The proposed Section 8 Homeownership Program would allow the Section 8 vouchers to be used towards mortgage payments for up to 15 years. The Committee recommended a one-year pilot program, tied directly to the Agency's Family Self-Sufficiency program, with an evaluation at the end of the year to determine if the program should be continued. Upon motion by Mr. Sisson, seconded by Mr. Lamar, the Board approved the Section 8 Homeownership Voucher Program as a one-year pilot program.

Mr. Sisson said staff reported on the status of direct servicing. He said staff visited 15 servicers and several indicated they would assist the Agency if a problem developed with other servicers. Due to large projects currently underway at the Agency and the current budget issues, staff recommended delaying implementation for 6 to 12 months. He said the budget for a direct servicing operation will be presented as an improvement to the Fiscal Year 2003 budget.

Mr. Sisson said the Policy & Programs Committee received an update on resources and production. He said the update on the pending legal matters regarding First Republic, National First Mortgage, and the tax credit petitions was included in the Board material.

Mr. Sisson said the Policy & Programs Committee considered a recommendation by staff to add an addendum to the existing 2001 Low Income Housing Tax Credit Qualified Allocation Plan ("2001 QAP"). The addendum would allow a second round for not-for-profit applications. He said the Agency did not allocate all tax credits in the not-for-profit set-aside during the first round. Applications would be accepted from applicants meeting the federal requirements or Agency requirements for not-for-profits. Since the Agency's requirements are more stringent, applicants meeting the Agency's not-for-profit requirements would receive a 50 point scoring bonus. Upon motion by Mr. Sisson, seconded by Mr. Reynolds, the Board approved adding an addendum to the 2001 QAP and authorized the Executive Director to approve the specific language of the addendum.

Ms. Myrick stated the Agency administers two Section 8 programs. One program is tenant-based and the other is Contract Administration. A new federal rule, impacting both Section 8 programs, was written on May 24, 2001, with a June 25, 2001, implementation. The rule covers new responsibilities for the Agency as administrator of these programs regarding the screening and eviction of tenants for drug abuse and other criminal activity. She said the Agency will have responsibility for running background checks and making determinations regarding the applicants or tenants ability to participate in the Section 8 program. The Agency will be allowed to charge owner/agents in the Contract Administration program a reasonable fee for the costs and it appears that if the Agency has to hire additional staff, that costs could be allocated. There is no compensation for the activity in the tenant-based program. Ms. Myrick said staff is very concerned about the liability being placed on THDA. Staff is working with NCSHA and other state housing agencies to delay the implementation date of the rule in order to seek guidance and clarification from HUD and to develop processes. Ms. Butterworth said the Board needs to be aware of developments with the background check responsibility because liability is involved.

Chairman Hayes recognized Ralph Massey, Deputy Executive Director, who has been with the Agency for 16 years. Mr. Massey is retiring and Chairman Hayes presented him with a certificate of appreciation from the Board of Directors. Mr. Massey expressed his appreciation to the Board for its service to the Agency and its support of him.

Chairman Hayes asked for other matters to be presented to the Board. Ms. Myrick reported on the sunset review for the Agency. The legislature postponed the Agency's sunset review hearing but they did pass a bill to continue THDA's existence until June 30, 2002. She said the sunset review hearing was

rescheduled for July 23, 2001. Mr. Reynolds said a bill on predatory lending was introduced but no action was taken. He said he thought it would be appropriate for the Agency to be involved at some level in seeking passage of the bill and helping define predatory lending.

In a report on federal legislation, Ms. Myrick said NCSHA is continuing to work on the Senate and House bills to appeal the 10-year rule. The appeal of this rule would give the Agency more resources. She said Congressmen Clement and Gordon are the only two members of the Tennessee Congressional delegation to sign onto the bill.

Ms. Myrick said Chairman Hayes and Mr. Reynolds will be attending the National Conference of State Housing Boards' development workshop in August. Ms. Myrick stated the September Board meeting will be held in Memphis. There will be a joint training session on the Low Income Housing Tax Credit program with the Arkansas Development Finance Authority Board of Directors. Ms. Myrick said the NCSHA Annual Conference would take place in Boston in late September. She said Chairman Hayes will be elected president of the National Conference of State Housing Boards at the Boston meeting. Board members were asked to contact Ms. Myrick or Chairman Hayes as soon as possible if they want to attend.

Ron Erickson, Director of Internal Audit, thanked the Board for completing their annual disclosure forms. Mr. Erickson and Lynn Miller, General Counsel, will review the Board and staff disclosures and provide the analyses at the September Board meeting. Mr. Erickson introduced Amy Hoffert who recently joined the Agency as an auditor.

Ms. Myrick stated she had completed the interview process and announced that Don Harris would become the Deputy Executive Director. She said Mr. Harris would initially focus on the Section 8 issues.

Chairman Hayes informed the Board that John Lamar was leaving the Department of Finance & Administration and would no longer be serving on the Board. Chairman Hayes thanked Mr. Lamar for his service on the Board and congratulated him on his new position with the Tennessee Advisory Commission on Intergovernmental Relations.

There was no further business to come before the Board and the meeting adjourned.

Respectfully submitted,

Janice L. Myrick
Executive Director

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